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UNCLAS SECTION 01 OF 02 RANGOON 001354

SIPDIS

FOR EAP/BCLTV
CINCPAC FOR FPA

E.O. 12958: N/A

TAGS: PHUM PREF PREL BM

SUBJECT: SR PINHEIRO WILL INSIST GOB AGREE TO INVESTIGATION
OF SHAN RAPE ALLEGATION

REF: SECSTATE 203659 AND PREVIOUS

11. (SBU) SUMMARY: UNSR PINHEIRO BRIEFED EU, AUSTRALIA, JAPAN AND U.S. REPRESENTATIVES ON HIS PLANS OR HIS VISIT TO BURMA AND OUTLINED THREE OPTIONS:

-- PLAN A - A JOINT INVESTIGATION BY SPDC, NLD AND ETHNIC REPRESENTATIVES (ALL AGREED THIS IS A NON-STARTER)
-- PLAN B - AN INVESTIGATION BY INDEPENDENT INVESTIGATORS OPERATING UNDER PINHEIRO'S UNSR HUMAN RIGHTS MANDATE (TO POSSIBLY INCLUDE PARTICIPATION BY THE UNSR FOR VIOLENCE AGAINST WOMEN)
-- PLAN C REQUEST A NEW UN MANDATE FOR THE SPECIFIC AND SOLE PURPOSE OF INVESTIGATING THE SHAN RAPE ALLEGATIONS (THIS WOULD TAKE PLACE IF AT ALL, IN THE FAR DISTANT FUTURE AS OBVIOUSLY IT WOULD NOT BE HIGH ON THE CURRENT UN AGENDA)

SR PINHEIRO'S MESSAGE WAS CONSISTENT WITH THE POSITIONS HE EXPRESSED IN HIS RECENT MEETINGS WITH EAP DAS MATT DALEY AND A/S LORNE CRANER (SEE REFTEL). WE WILL STAY IN CLOSE CONTACT WITH PINHEIRO DURING THIS VISIT AND STRESS THAT HE MUST NOT STEP BACK FROM CONFRONTING THE GOB AND EXERTING EVERY PRESSURE TO MAKE THEM AGREE TO THE OHCHR INVESTIGATIVE TEAM. HOWEVER, THE USG AND OTHER GOVERNMENTS WILL NEED TO COMMIT TO FUNDING AN OHCHR "FACT FINDING" MISSION. END SUMMARY.

12. (SBU) SR PINHEIRO BRIEFED EU, AUSTRALIA, JAPAN, AND U.S. REPRESENTATIVES ON HIS PLANS OR HIS VISIT TO BURMA AND IN PARTICULAR HIS PLAN OF ACTION REGARDING INVESTIGATION OF THE SHAN RAPE ALLEGATIONS. HE OUTLINED THREE OPTIONS:

-- PLAN A - A JOINT INVESTIGATION BY SPDC, NLD AND ETHNIC REPRESENTATIVES (ALL AGREED THIS IS A NON-STARTER)
-- PLAN B - AN INVESTIGATION (THE TERM FACT-FINDING IS PREFERRED AS "INVESTIGATION" REALLY RAISES THE GOB'S HACKLES) BY INDEPENDENT INVESTIGATORS OPERATING UNDER PINHEIRO'S UNSR HUMAN RIGHTS MANDATE (TO INCLUDE PARTICIPATION BY THE UNSR FOR VIOLENCE AGAINST WOMEN)
-- PLAN C - REQUEST A NEW UN MANDATE FOR THE SPECIFIC AND SOLE PURPOSE OF INVESTIGATING THE SHAN RAPE ALLEGATIONS (THIS WOULD TAKE PLACE IF AT ALL, IN THE FAR DISTANT FUTURE AS OBVIOUSLY IT WOULD NOT BE HIGH ON THE CURRENT UN AGENDA)

13. (SBU) AFTER SOLICITING COMMENTS FROM THE VARIOUS MEMBERS AROUND THE TABLE, PLAN B (JUST AS IN REFTEL) PINHEIRO AGREED THAT PLAN B IS THE ONLY OPTION THAT WOULD SATISFY THE GOB'S RESPONSIBILITY TO PROTECT HUMAN RIGHTS AND THE ONLY OPTION THAT THE INTERNATIONAL HUMAN RIGHTS COMMUNITY WOULD FIND CREDIBLE. PINHEIRO STATED THAT HE WOULD PUT THIS PROPOSAL to THE GOB IN COURTEOUS BUT VERY STRONG TERMS AND WOULD ADVISE THEM THAT IF THEY DID NOT AGREE, THEN HIS UPCOMING REPORT TO THE UN WOULD BE VERY HARSH.

14. (SBU) PINHEIRO SAID THAT THE GOB WOULD HAVE TO AGREE AND GUARANTEE THE FOLLOWING CONDITIONS IN ORDER TO IMPLEMENT PLAN B:

-- FREE ACCESS TO ALL VICTIMS AND WITNESSES
-- FREEDOM OF MOVEMENT TO ALL LOCALES INCLUDING AND
ESPECIALLY BORDER AREAS
-- FREEDOM TO DECIDE THE COMPOSITION OF THE TEAM
-- FREEDOM TO DECIDE THE LENGTH OF TIME THE TEAM WOULD NEED
FOR THE INVESTIGATION
-- FREEDOM TO VERIFY THAT COOPERATING WITNESSES/VICTIMS DID
NOT SUFFER REPRISALS

15. (SBU) PER REFTEL, PINHEIRO STRESSED THAT FUNDING COULD BE A STUMBLING BLOCK AND ASKED FOR REASSURANCES THAT FUNDS WOULD BE FORTHCOMING, ASSURANCES THAT HE RECEIVED VERY CLEARLY FROM THE U.S., AUSTRALIAN, AND U.K COM'S PRESENT, AND WITH SOME INDICATION FROM OTHERS AROUND THE TABLE THAT THEY WOULD ALSO BE WILLING TO FUND.

16. (SBU) SR PINHEIRO SAID THAT THE GOB HAD PLANNED A VERY FULL PROGRAM FOR HIM IN SHAN STATE BUT HE HAD NO INTENTION OF GOING THERE. HE SAID HE WOULD NOT BE ABLE TO DISCOVER ANYTHING DURING HIS CURRENT VISIT CONDITIONS AND THE GOB WOULD USE A VISIT TO SHAN STATE AS A "BENEDICTION" OF THEIR ACTIONS. HE ALSO COMPLAINED THAT HE WAS VERY IRRITATED THAT SPDC SPOKESMAN HLA MIN HAD BEEN TOUTING HIS VISIT AS BEING A RESPONSE TO A GOB INVITATION TO INVESTIGATE THE RAPE ALLEGATIONS. PINHEIRO SAID THIS WAS PART OF HIS NORMAL

SCHEDULE OF SR VISITS AND NOT PREDICATED ON INVESTIGATING THE RAPE ALLEGATIONS.

17. (SBU) PINHEIRO WENT ON TO SAY THAT HE WAS NOT GOING TO FOLLOW THE GOB'S VERY DETAILED PLAN FOR HIS VISIT BUT WOULD PURSUE HIS OWN AGENDA IN ADDITION TO AN OUTBRIEF FOR THE SAME GROUP HE MET WITH TODAY, HE ASKED TO MEET WITH COM PRIVATELY THIS WEEKEND TO PROVIDE A READOUT AFTER HIS FIRST FEW DAYS HERE AND TO DISCUSS OUR FINDINGS IN RELATION TO THE RECENT VISIT OF DRL/IRF'S PAUL MARTIN.

18. (SBU) COMMENT: SR PINHEIRO'S MESSAGE WAS CONSISTENT WITH THE POSITIONS HE EXPRESSED IN HIS RECENT MEETINGS WITH EAP DAS MATT DALEY AND DRL A/S LORNE CRANER. WE WILL STAY IN CLOSE CONTACT WITH PINHEIRO DURING THIS VISIT AND STRESS THAT HE MUST NOT STEP BACK FROM CONFRONTING THE GOB AND EXERTING EVERY PRESSURE TO MAKE THEM AGREE TO THE OHCHR INVESTIGATIVE TEAM. END COMMENT.

Martinez